

§ 545.206 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 545.207 Expenses of maintaining blocked property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 a.m., Eastern Daylight Time, July 6, 1999, all expenses incident to the maintenance of physical property blocked pursuant to § 545.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 545.201 may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 545.208 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials as defined in § 545.305, whether commercial or otherwise, regardless of format or medium of trans-

mission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information and informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 545.201 or from the territory of Afghanistan controlled by the Taliban, payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730-774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to § 545.201 are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such

travel including nonscheduled air, sea, or land voyages.

(d) *Official Business.* The prohibitions contained in this part do not apply to transactions for the conduct of the official business of the United States Government or the United Nations by employees thereof.

(e) *Journalistic Activity.* The prohibitions contained in this part do not apply to transactions in the territory of Afghanistan controlled by the Taliban for journalistic activity by persons regularly employed in such capacity by a news-gathering organization.

(f) *Humanitarian donations.* The prohibitions contained in this part do not apply to donations by U.S. persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.

Subpart C—General Definitions

§ 545.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property*, shall mean any account or property subject to the prohibitions in § 545.201 held in the name of the Taliban or persons whose property or interests in property are blocked pursuant to § 545.201, or in which the Taliban or persons whose property or interests in property are blocked pursuant to § 545.201 have an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 545.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m., Eastern Daylight Time, on July 6, 1999.

§ 545.303 Entity.

The term *entity* means a partnership, association, corporation, or other organization, group, or subgroup.

§ 545.304 Importation into the United States.

(a) With respect to goods, software, or technology, the term *importation into the United States* means the bringing of any goods, software, or technology into the United States. However, with respect to goods, software or technology being transported by vessel, *importation into the United States* means the bringing of any goods or technology into the United States with the intent to unlade. See also § 545.404.

(b) With respect to services, the term *importation into the United States* means the receipt in the United States of services or receipt in the United States of the benefit of services wherever such services may be performed. The benefit of services is received in the United States if the services are:

(1) Performed on behalf of or for the benefit of a person located in the United States;

(2) Received by a person located in the United States;

(3) Received by a person located outside the United States on behalf of or for the benefit of an entity organized in the United States; or

(4) Received by an individual temporarily located outside the United States for the purpose of obtaining such services for use in the United States.

§ 545.305 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO § 545.305(a). To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information and informational materials* with respect to United States exports does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401-2420 (1979) (the